

## INTERFERENCE DIGEST

Interference No. 105,167

Paper No. 14

Name: Jeffrey R. Dahlen et al.

Serial No.: 09/835,298

Patent No.

Title: Use of B-type natriuretic peptide as a prognostic indicator in acute coronary syndromes

Filed: 04/13/01

Interference with Stanton et al.

### DECISION ON MOTIONS

Administrative Patent Judge, \_\_\_\_\_ Dated, \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### FINAL DECISION

Board of Patent Appeals and Interferences, Favorable Dated, 5/18/05

\_\_\_\_\_

Court, \_\_\_\_\_ Dated, \_\_\_\_\_

### REMARKS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

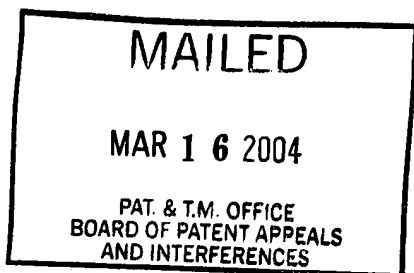
This should be placed in each application or patent involved in interference in addition to the interference letters.



## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Sally Gardner Lane  
Telephone: (703) 308-9797  
Facsimile: (703) 305-0942



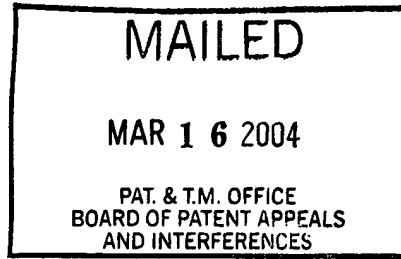
Applicant: DAHLEN  
Application No.: 09/835,298  
Filed: 04/13/01  
For: Use of B-type natriuretic peptide as a prognostic  
indicator in acute coronary syndromes  
Accorded benefit: None

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,167.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

  
SALLY GARDNER LANE  
Administrative Patent Judge

Filed by: Sally Gardner Lane  
Administrative Patent Judge  
Mail Stop Interference  
P. O. Box 1450  
Alexandria, VA 22313-1450  
Tel: 703-308-9797  
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Paper 1

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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ERIC B. STANTON,  
and GEORGE JACKOWSKI

Junior Party,  
(Patent 6,461,828),

v.

JEFFREY R. DAHLEN,  
GUNARS E. VALKIRS, and KENNETH F. BUECHLER

Senior Party,  
(Application 09/835,298).

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Patent Interference No. 105,167

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**DECLARATION**  
(37 CFR § 1.611)

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application, patent, count and claims designated as corresponding or as not corresponding to the count appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

**Part B. Judge designated to handle the interference**

Administrative Patent Judge Sally Gardner Lane has been designated to handle the interference. 37 CFR § 1.610(a).

**Part C. Standing order**

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

**Part D. Conference call to set dates**

A telephone conference call to set dates for taking action in the interference is scheduled for **2:00 pm on 28 April 2004** (the call will be initiated from the PTO).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See STANDING ORDER ¶ 10.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE. Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.

**Part E. The parties involved in this interference are:**

Junior Party

Named inventors: Eric B. Stanton  
Burlington, CANADA

George Jackowski  
Kettleby, CANADA

Application: 09/946,171, filed 4 September 2001,  
issued as patent 6,461,828 on 8 October 2002

Title: CONJUNCTIVE ANALYSIS OF BIOLOGICAL MARKER  
EXPRESSION FOR DIAGNOSING ORGAN FAILURE

Assignee: Syn X Pharma, Inc.

Accorded Benefit: None

Attorneys: See last page

Address: See last page

Senior Party

Named Inventors: Jeffrey R. Dahlen  
San Diego, California

Kenneth F. Buechler  
San Diego, California

Gunars E. Valkirs  
Escondido, California

Application: 09/835,298, filed 13 April 2001

Title: USE OF B-TYPE NATRIURETIC PEPTIDE AS A  
PROGNOSTIC INDICATOR IN ACUTE CORONARY  
SYNDROMES

Assignee: Biosite, Inc.

Accorded Benefit: None

Attorneys: See last page

Address: See last page

**Part F. Count and claims of the parties**

**Count 1**

Claim 1 or Claim 4 of Stanton (6,461,828)

or

Claim 23 of Dahlen (09/835,298).

The claims of the parties are:

Stanton: 1-5

Dahlen: 23 and 24

The claims of the parties which correspond to Count 1 are:

Stanton: 1 and 3-5

Dahlen: 23 and 24

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Stanton: 2

Dahlen: none

**Part G. Heading to be used on papers**

The following heading shall be used on papers filed in the interference. See STANDING ORDER ¶ 3.5.

Paper \_\_\_\_<sup>1</sup>

Filed on behalf of [name of party]

By: Name of lead counsel  
Name of backup counsel  
Street address  
City, State, and Zip-Code  
Tel:  
Fax:

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

(Administrative Patent Judge Sally Gardner Lane)

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ERIC B. STANTON,  
and GEORGE JACKOWSKI  
Junior Party,  
(Patent 6,461,828),

v.

JEFFREY R. DAHLEN,  
GUNARS E. VALKIRS, and KENNETH F. BUECHLER  
Senior Party,  
(Application 09/835,298).

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Patent Interference No. 105,167

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TITLE OF PAPER

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<sup>1</sup> Leave a blank line because the board assigns the paper number.



## **Part H. Summary of dates for taking action**

Times for taking action are set out in the following sections of the STANDING ORDER:

- ¶ 4: date for identifying lead and backup counsel.
- ¶ 5: date for identifying any real party in interest.
- ¶ 6: date for requesting copies of involved and benefit applications and patents.
- ¶ 7: date for accomplishing certain discovery.
- ¶ 8: date for filing clean copy of claims.
- ¶ 9: date for filing clean copy of claims in cases with drawings or claims containing a means plus function limitation.
- ¶ 10: date for filing list of proposed preliminary motions.
- ¶ 13.10.2: dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
- ¶ 14.1.1: date for objecting to admissibility of evidence.
- ¶ 14.2: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
- ¶ 14.3: dates when cross-examination can take place.
- ¶ 15.2: dates for taking action with respect to settlement discussions.

**Part I. Order form for requesting file copies**

**FILE COPY REQUEST  
Interference 105,167**

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. \_\_\_\_\_
2. Complete address, including street, city, state, ZIP code and telephone number (do not list a Post Office box because file copies are sent via commercial overnight courier).

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3. Telephone, including area code: \_\_\_\_\_

**Part J. Signature of administrative patent judge**

  
Sally Gardner Lane  
Administrative Patent Judge

Date: 16 March 2004

Enc:

Copy of STANDING ORDER

Copy of order used for setting times for taking action in the preliminary motion phase of the interference

Copy of order used for setting times for taking action in the testimony and briefing phases of the interference

Form PTO-850 and statement from the examiner

Copy claims of 09/835,298

Copy of US 6,461,828

Revised May 2003

cc (via overnight delivery):

Attorney for STANTON (real party in interest: Syn X Pharm, Inc.):

MICHAEL & SLAVIN, P.A.  
2855 PGA Boulevard  
Palm Beach Gardens, FL 33410

Attorney for DAHLEN (real party in interest: Biosite, Inc.):

FOLEY & LARDNER  
402 West Broadway, 23<sup>rd</sup> Floor  
San Diego, CA 92101-3542